IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 785 (SS) of 2007

Km. Champa Bhauriyal,
Aged about 45 years,
D/o late Diwan Singh Bhauriyal,
R/o near Nalkoop Khand Office,
Bareilly Road, Teen Pani,
Haldwani,
District-Nainital. **…….Petitioner**

Versus

1. State of Uttarakhand, through Secretary, Department of Education (Basic), Uttarakhand, Dehradun.
2. Mr. Daan Singh Rautela, Additional District of Education, Kumaon Division, Nainital.
3. Additional Basic Shiksha Adhikari, Haldwani, Block Haldwani, District-Nainital.

…….Respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri C.D. Bahuguna, learned counsel for the petitioner and Sri Paresh Tripathi, learned Brief Holder for State of Uttarakhand on behalf of respondent no. 1 and 3.

By means of this writ petition, the petitioner has prayed for the following reliefs:

i. issue a writ, order or direction , in the nature of Certiorari quashing the impugned order of transfer dated 15.06.2007 issued by Additional Director of Education, Kumaon Division, Nainital Contained in Annexure no. 1 to this petition.

ii. Issue any other writ, order or direction which the Hon'ble Court may deem fit and proper in the circumstances of the case.

iii. Award cost of the present writ petition to the petitioner.

The submission of learned counsel for the petitioner is that petitioner is suffering from Arthritis and Spondylitis and there were several recommendations of so many Officers including the Minister concerned to transfer the petitioner at Haldwani Block, Haldwani, consequently, petitioner was attached vide order dated 02.09.2004 to Haldwani Block, Haldwani.

Now, by means of impugned order dated 15.06.2007 passed by respondent no. 2 attachment order of the petitioner has been cancelled and petitioner has been directed to join her duty at original place of posting i.e. at Dhari, Block – Ramgarh, District –Nainital.

The submission of learned counsel for the petitioner is that petitioner is not against order of cancellation of attachment but his request is that since the post of Sub Deputy Inspector of Schools is vacant at Haldwani, petitioner could have been transferred to Haldwani in view of her disease from which she is suffering since 1998 and further, petitioner is working, since her appointment, mostly in Durgam and Ati Durgam areas.

Learned counsel for the respondent has submitted that Government has framed Policy to cancel the attachment order consequently, this court order cannot interfere with the cancellation of attachment order.

Considering the fact that post of Sub Deputy Inspector of Schools is vacant at Haldwani where the petitioner is working and petitioner is suffering from Arthritis and Spondylists, she could have easily been transferred to Haldwani against vacant post or any other place which is suitable to the petitioner.

In these circumstances, I find it fit and proper to direct the Additional Director of Education, Kumaon Division, Nainital to take decision on the representation of the petitioner dated 22.06.2007 (Annexure no. 17 to the writ petition) within a period of three weeks from the date of production of certified copy of this order. Till the decision is taken by the Additional Director of Education, Kumaon Division, Nainital on the representation of the petitioner or till 10.08.2007 whichever is earlier the petitioner shall not be relieved from the present place of posting.

With this direction, writ petition as well as interim relief application no. nil of 2007 is disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

July 04, 2007
SKSharma